IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7058 OF 1993

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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JUNAGADH MUNICIPALITY - Petitioner(s)

Versus

JAYANTILAL BHAGWANJI SAVARIYA - Respondent(s)

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Appearance :
Shri Murli Devnani for Petitioner(s).
Shri K.D. Pandya for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 16/07/2007

ORAL JUDGMENT

The petitioner-Employer, being aggrieved by the award dated 27th August, 1992 passed by the learned Labour Court, Junagadh

in Reference (LCJ) No.403 of 1990 [Old Reference (LCR) No.596 of 1985], is before this Court with a submission that the learned Court below was absolutely unjustified in directing reinstatement of the workman with other benefits.

2. Placing reliance upon a judgement of the Supreme Court in the matter of ***Jaipur Development Authority vs. Ram Sahai & Anr.***, [***JT 2006 (9) SC 520***], it is submitted that if the workman had not completed 240 days in the service, then, mere violation of Sections 25-G and 25-H of the Industrial Disputes Act, 1947 would not clothe the Tribunal with the jurisdiction to direct reinstatement and consequential benefits.

3. Shri Pandya, learned Counsel for the respondent-workman, however, submitted that the said judgement would not apply to the facts of the case and as the respondent-workman has already been reinstated long back, this Court should refuse to interfere at this stage.

4. In the matter of ***Jaipur Development Authority*** (*supra*), the Supreme Court has observed that the workman not having been appointed on regular basis, nor being in continuous service, mere violation of Sections 25-G and 25-H would not be sufficient to justify the award for reinstatement with full back-wages. The Supreme Court also

observed that for seeking the benefits, the workman has to prove that he had worked for 240 days in twelve calendar months preceding the date of illegal retrenchment. In the present case, undisputedly, the respondent had worked only for three months. If that be so, the learned Labour Court could not direct reinstatement, nor could make any order for grant of the consequential benefits.

5. The petition is allowed. The impugned award is hereby set aside. Rule is made absolute. No costs.

[R.S.Garg, J.]

*kamlesh**